

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

AYUSH - Seniority List of Medical Officers / Lecturers / Technical Assistants Ayur.)
appointed in 1996 and onwards issued by the Commissioner of Ayush - Appeal allowed
for revision of seniority – Orders – Issued.

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HEALTH MEDICAL & FAMILY WELFARE (I.2) DEPARTMENT

G.O.Ms.No. 89

Dated: 13 -04-2011
Read the following:-

- 1) Memo.No.14300/Ayur.2/2005 , dt. 5.2.2010 of the Commissioner of Ayush, A.P. Hyd.
- 2) Appeal petition dt. –nil- filed by Dr.Sunitha Joshi, Lectuerer, Dr.B.R.K.R. Govt., Ayurvedic College, Hyderabad. and seven others.
- 3) Interim order dt.11.3.2010 of the Hon'ble APAT, in O.A.No. 1446/2010 filed by Dr.Ch.Ravinder and 7 others.
- 4) Govt.Memo.No.3278/I.2/2010-1 HM&FW(I.2) Dept., dt.4.3.2010..
- 5) From the Commissioner of Ayush,A.P.Hyd. Lr.No. 2572/Ayur.2/2010 dt. 12.3.2010.
- 6) Representation dt. 24.3.2010 of Dr.K.Vijayakumari and 11 others.
- 7) Representation dt.,28.2.2011 of Dr. K.Vijayakumari and 3 others .
- 8) Representation dt,9.3.2011 of Dr.Sunitha Joshi and 2 others.

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Order:

The Commissioner of Ayush vide his Memo Ist read above has issued final Seniority list of (95) Medical Officers / Lecturers / Technical Assistants (Ayurveda.) appointed from 1996 onwards .

2. Aggrieved by the final Seniority list, Dr.Sunitha Joshi , Lecturer, Dr.B.R.K.R. Govt., Ayurvedic College, Hyderabad. and seven others have filed appeal petition before the Government vide reference 2nd read above. In their appeal petition they have represented that the Commissioner of Ayush has issued a notification, dt.26.3.1998 calling for applications for 85 posts of Medical Officers / Lecturers of Ayurveda including forty (40) vacancies meant for SCs and seven (7) vacancies for S.Ts. In the said notification there was no mention of backlog vacancies earmarked for SC & STs. The services of the appellants were regularized initially basing on their dates of joining into service. The Hon'ble APAT has also confirmed the same vide orders dt.4.4.2008 in O.A.No.2478/2008 directed to take into consideration the earlier dates of regularization only, for all purposes. The Commissioner of Ayush has issued a provisional seniority list and later, final seniority without considering the above said directions of APAT. The petitioners have further represented that the persons who were selected against the reserved vacancies and whose names were shown at Sl.Nos.13-49 in the final seniority list have secured less ranks in the selection list and joined much later and that the seniority is to be fixed as per the merit ranking assigned in the selection process as per rule 33 (a)& (b) and Rule 36 of A.P.State and Subordinate Service Rules 1996, without reference to the roster points whether such roster points available from the backlog vacancies or other wise. Finally, they have requested to consider their appeal as per the rule position and as per the orders of the Apex Court of India and to set aside the final seniority list dt.5.2.2010 issued by the Commissioner of Ayush.

3. In their representation of the petitioners vide reference 8th read above, Dr Sunitha Joshi and two others have requested to change the date of regularization as per the recent APAT orders dt.3.11.2010 in O.A.No.1236/2006 filed by Dr.A.Sulochana, Asst. Professor (Ayur) and taking into consideration the Govt. Circular Memo No. 16/Ser.A/1993-39, GA (Ser.A) Dept., dt. 21.4.1999 and orders of the Apex Court of India in Ajit Sing & others vs State of Punjab dt.16.9.1999 and in Bimlesh Thanwar vs State of Haryana & others dated 10.3.2003 also and to decide their appeal petition dt.25.2.2010 filed before the Govt.,at an early date.

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4. The Commissioner of Ayush, A.P. Hyd. vide letter.5th read above has stated that a process took place to fill up all the (85) notified vacancies which constitute (i) (37) backlog /reserved vacancies and (ii) (48) general vacancies. For that purpose, a news paper notification was given on .26.03.1998 for direct recruitment specifying that (40) posts were reserved for SCs and (7) posts were reserved for STs but there was no specific mention that “(37) out of (85) come under backlog (carried forward) vacancies” and these 37 carried forward posts were supposed to be recruited separately and the 48 General vacancies were supposed to be recruited later. But such separate recruitment did not take place

5. He has further stated that due to the lapse of non-mention the “backlog vacancies” in the notification does not give a right to the applicants to supersede the reserved (backlog) vacancies on the basis of merit. The ultimate effect of the two different groups (backlog & general) recruited in two spells, separately or recruited at a time combinedly would show the same order of seniority, as merit was not disturbed. Thus, the (8) candidates are not at all put to any loss. And also it is unconstitutional, if the reserved group is deprived of their absolute seniority on account of backlog vacancies.

6. The applicants in the appeal petition, have also filed O.A. No.1446/2010 before the APAT seeking directions to stay the operation of the final seniority list, dt.5.2.2010, issued by the Commissioner of Ayush and the Hon'ble APAT on 11.3.2010 has passed the following interim order:-

INTERIM RELIEF:

Pending disposal of the O.A., there shall be a direction to the 2nd Respondent (Prl.Secy. HM&FW Dept.) to consider and pass appropriate orders in accordance with Rules governing the fixation of seniority in the category of Lecturers / Medical Officers on the Appeal Petition filed by the Applicants and acknowledged by the Respondents on 25-2-2010 . Till then, the Seniority List shall not be given affect to.”

7. In the representations 6th & 7th read above, Dr.K.Vijaya Kumari and others have represented that the final seniority list dated 5.2.2010 is prepared strictly in accordance with the rules duly taking into consideration all the objections raised by the candidates. By virtue of the orders dt.11.3.2010 of the Hon'ble A.P.A.T.in O.A.No.1446/2010, number of persons are being effected and promotions have been delayed and the final seniority list does not warrant any change as it was prepared strictly in accordance with the rules..

8. The Government have examined the matter in accordance with rule 33 and 36 of the A.P.State and Subordinate Service Rules 1996 and in the light of judgments of the Hon'ble Supreme Court of India i.e., (i) Bimlesh Tanwar vs. State of Haryana, reported in AIR 2003 SC 2000 (ii) The Govt., of A.P. vs. P.Bhasker and others (2008(2) SLR page 782) and observed that it is not correct to fix the seniority of the candidates who were selected in the backlog vacancies and the candidates who were selected in the general vacancies, separately as they (both) were selected through the same notification, instead of fixing the seniority in one common seniority list. Therefore, the Government hereby order for the review of seniority list issued by Commissioner of Ayush in his order dated 5.2.2010 and order that seniority be determined in one common seniority list as per the merit ranking assigned to them by the Selection Committee,

9. The Commissioner of Ayush shall take further action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

DR. P.V.RAMESH,
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner of Ayush, AP, Hyd.
Sf./Sc.

//FORWARDED::BY::ORDER//

SECTION OFFICER.